

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Anna Steel	Team: Team # 8	CCRB Case #: 200909098	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/02/2009 10:15 PM	Location of Incident: § 87(2)(b)	Precinct: 69	18 Mo. SOL 12/2/2010	EO SOL 12/2/2010	
Date/Time CV Reported Sat, 06/06/2009 1:08 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 06/11/2009 2:46 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Christophe Denny	02995	936468	069 PCT
2. SGT Eric Delman	01832	922228	069 PCT
3. An officer			069 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Owen Monk	19552	942229	069 PCT
2. POM Kevin Savary	30823	931168	069 PCT
3. LT Robert Henderson	00000	919167	069 PCT
4. POM Philogene Breville	03121	940974	069 PCT
5. POM Lutfi Dalipi	24689	943128	069 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Christophe Denny	Force: PO Christophe Denny used physical force against § 87(2)(b)	
B.SGT Eric Delman	Force: Sgt. Eric Delman used physical force against § 87(2)(b)	
C.SGT Eric Delman	Abuse: Sgt. Eric Delman threatened § 87(2)(b) with the use of force.	
D. An officer	Force: An officer tightly handcuffed § 87(2)(b)	
E. An officer	Discourtesy: An officer spoke obscenely to § 87(2)(b)	

Case Summary

§ 87(2)(b) filed a complaint with Internal Affairs on June 6, 2009, generating log number 09-28474 (encl. 3), which was forwarded to the CCRB on June 11, 2009 (encl. 4a – 4b).

On June 2, 2009, at 10:05 PM, Sgt. Eric Delman and PO Christopher Denny from the 69th Precinct approached § 87(2)(b) at § 87(2)(b) in Brooklyn. The following allegations resulted:

- **Allegation A – Force:** PO Christopher Denny used physical force against § 87(2)(b)
- **Allegation B – Force:** Sgt. Eric Delman used physical force against § 87(2)(b)
 - § 87(2)(g)
- **Allegation C – Abuse of Authority:** Sgt. Eric Delman threatened § 87(2)(b) with the use of force. § 87(2)(g)
- **Allegation D – Force:** An officer tightly handcuffed § 87(2)(b) § 87(2)(g)
- **Allegation E – Discourtesy:** An officer spoke obscenely to § 87(2)(b) § 87(2)(g)

This case was originally assigned to Investigator Mohr. Following his promotion to the mediation unit, the case was reassigned to Investigator Steel on January 25, 2010.

Results of Investigation

Civilian Statement(s)

Complainant/victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old Hispanic male who is 5'2" tall, weighs 135, and has black hair.

§ 87(2)(b) was interviewed at the CCRB on June 13, 2009 (encl. 5a – 5c). On June 2, 2009, at about 10:05 PM, § 87(2)(b) was outside § 87(2)(b) in Brooklyn with a few friends, including § 87(2)(b). He was holding a cup of Hennessy cognac. Officers, identified through the investigation as PO Christopher Denny and Sgt. Eric Delman of the 69th Precinct, approached them.

§ 87(2)(b) walked away. When told the officers were following him, he ran into § 87(2)(b). PO Denny pursued him into the stairwell, grabbed his back, pulled him down the stairs, threw him against a wall, pushed him to the ground and handcuffed him (**Allegation A**). § 87(2)(b) denied resisting. § 87(2)(b) stood. PO Denny then slammed his head against the stairwell door, took him into the lobby, and slammed his head against both doors in the lobby before bringing him to the ground and kicking him about five to seven times in the ribs (**Within Allegation A**). Sgt. Delman entered the lobby. The officers assisted him into a standing position and then pushed him chest-first against the wall in the lobby (**Allegation A and B**). Sgt. Delman said, “Shut the fuck up. I will kill you in this body” (**Allegation C**). They brought § 87(2)(b) out of the building, slammed his head against the lobby door, and threw him to the ground (**Within Allegations A and B**). Other officers responded to the scene. An officer, whom the investigation did not identify, allegedly stepped on § 87(2)(b)'s handcuffed wrists, tightening them in the process (**Allegation D**). The officer then leaned down, grabbed his wrists and further tightened his handcuffs (**Within Allegation D**). § 87(2)(b) saw his mother, § 87(2)(b) and a friend, § 87(2)(b) watching from the lobby. He was taken to the 69th Precinct. He requested medical treatment at Central Booking and was taken to

§ 87(2)(b). His medical records (encl. 18a – 18d) show he complained of pain in his stomach, ribs, and left wrist. Pursuant to his arrest, § 87(2)(b) was charged with § 87(2)(b).
§ 87(2)(b). He signaled his intent to file a civil suit regarding the incident.

Victim: § 87(2)(b)

§ 87(2)(b) gave a telephone statement to the CCRB on January 27, 2010 (encl. 7). On June 2, 2009, at 10:15 PM, § 87(2)(b) called § 87(2)(b) and said officers were harassing her son, § 87(2)(b). She ran to the lobby with her children, § 87(2)(b) and § 87(2)(b). Officers refused to let her exit the lobby. An officer held § 87(2)(b) to the ground outside. She asked to be let out and an officers told her to ‘shut the fuck up’ (**Allegation E**). § 87(2)(b) was handcuffed, picked up, thrown back onto the ground, and then picked up again and taken to a police vehicle.

A letter was sent to § 87(2)(b) on January 20, 2008. Interviews were scheduled with § 87(2)(b) for February 2, 2010, and February 8, 2010. She missed both of her scheduled appointments. As of the date of this report, § 87(2)(b) has failed to contact the CCRB regarding the incident.

Attempts to Contact Civilians

A letter was sent to § 87(2)(b) on July 20, 2009. On January 25, 2010, a call was placed to her provided number and the investigator spoke with a female who stated that no one by § 87(2)(b)s name used her number. On this date, a check via 411.com and the Cole’s Directory did not yield any additional contact information. On February 8, 2010, a Verizon subpoena was returned with similarly negative results. On March 19, 2010, a final letter was sent to § 87(2)(b). As of the date of this report, she has not contacted the CCRB regarding the incident.

Letters were sent to § 87(2)(b) on July 20, 2009, and on August 20, 2009. Between August 14, 2009, and September 8, 2009, four calls were placed to his provided number. On the latter of these attempts, an interview was scheduled with § 87(2)(b) for September 9, 2009. He called the investigator on this date and rescheduled his interview for September 16, 2009, at which time he failed to appear at the CCRB for his scheduled interview. A missed appointment letter was sent to his address. On January 25, 2010, and February 1, 2010, two additional calls were placed to his provided number. On February 1, 2010, a final letter was sent to his address. As of the date of this report, § 87(2)(b) has failed to contact the CCRB about the incident.

Letters were sent to § 87(2)(b) and § 87(2)(b) on January 27, 2010. On January 27, 2010, an interview was scheduled with § 87(2)(b) and § 87(2)(b) for February 2, 2010. On this date, § 87(2)(b) and § 87(2)(b) failed to appear at the CCRB and missed appointment letters were sent to their address. On February 3, 2010, a call was placed to their number and a second interview with § 87(2)(b) and § 87(2)(b) was scheduled for February 8, 2010. On this date, § 87(2)(b) and § 87(2)(b) failed to appear at the CCRB for their second, scheduled appointment. As of the date of this report, § 87(2)(b) and § 87(2)(b) have failed to contact the CCRB regarding the incident.

NYPD Statement(s):

Subject Officer: SGT. ERIC DELMAN

- Sgt. Delman is a § 87(2)(b)-old white male who is 5’9” tall, weighs 185, and has graying black hair.
- On the day of the incident, Sgt. Delman was the assigned conditions sergeant and worked from 2:50 PM to 11:47 PM with PO Denny in uniform and in an unmarked black Chevrolet Impala.

CCRB Testimony

Sgt. Delman was interviewed at the CCRB on February 2, 2010 (encl. 15a – 15b). On June 2, 2009, at about 10:05 PM, Sgt. Delman and his partner, PO Christopher Denny, were conducting routine patrol near § 87(2)(b) in Brooklyn. Sgt. Delman saw about five individuals standing in a courtyard behind § 87(2)(b). Sgt. Delman knew the individuals as members of a gang called Hustle Hard. Those in the gang are known to sell cocaine, regularly carry firearms and other weapons, and wear black bandanas in their rear pockets to identify themselves. The males were holding cups and several open bottles of alcohol were at their feet. A male within the group, later identified as § 87(2)(b) saw the police vehicle and became observably nervous. Sgt. Delman explained that he was moved his hands furtively, looked nervously towards the officers, and began to back away. He was the only individual among the group who was acting in this fashion. Sgt. Denny alerted PO Denny to his observations and stopped his police vehicle. § 87(2)(b) ran into § 87(2)(b). PO Denny pursued him on foot. Sgt. Denny drove to the building's entrance.

By the time Sgt. Denny entered the vestibule, § 87(2)(b) was in handcuffs and standing by PO Denny. They escorted him out of the building. Sgt. Delman never said, "Shut the fuck up. I will kill you." PO Denny never kicked § 87(2)(b) in the ribs. The officers never punched or slammed his head against a door. Once outside, § 87(2)(b) began to reach his hands into his rear pockets. Sgt. Delman feared he was reaching for a weapon or attempting to destroy or conceal contraband. He pulled on § 87(2)(b)'s arms to pull his hands out of his pockets. Additional officers responded to the scene. Sgt. Delman pushed § 87(2)(b) chest-first against a fence and then pulled him to the ground. He then pulled § 87(2)(b)'s hands out of his pockets. Sgt. Delman recovered a Newport cigarette pack containing twists of cocaine and a small quantity of marijuana. None of the officers stepped on § 87(2)(b)'s wrists, thus tightening them. Neither Sgt. Delman nor any other officers ever deliberately tightened § 87(2)(b)'s handcuffs. § 87(2)(b) was placed in a police vehicle and transported to the 69th Precinct. Around this time, a female, identified through the investigation as § 87(2)(b) approached Sgt. Delman and asked what had happened to § 87(2)(b). He told her that § 87(2)(b) had been arrested and would be brought to the 69th Precinct. Neither he nor any other officers told her to 'shut the fuck up.'

Subject Officer: PO CHRISTOPHER DENNY

- PO Denny is a § 87(2)(b)-old black male who is 6' tall, weighs 230 pounds, and has black hair.
- On the day of the incident, PO Denny held the same assignment as Sgt. Delman.

CCRB Testimony

PO Denny was interviewed at the CCRB on March 19, 2010 (encl. 13a – 13b) § 87(2)(g). When § 87(2)(b) ran into § 87(2)(b), he tried to close the front door, but PO Denny was able to push it open and run after him. PO Denny ran into the stairwell and checked behind the door, where he saw § 87(2)(b) hiding. PO Denny grabbed his arms and walked him out of the lobby. He was not handcuffed in the lobby. § 87(2)(b) was never punched or kicked and his head was never slammed against a wall or door. Once outside, § 87(2)(b) ran towards them and began screaming. PO Denny gave § 87(2)(b) to Sgt. Delman and then restrained § 87(2)(b). When he turned back to Sgt. Delman, § 87(2)(b) had a Newport cigarette pack in his hand which he was refusing to relinquish. PO Denny grabbed him again and secured him in handcuffs. § 87(2)(b) moved his arms in slight resistance, but PO Denny explained that he was only 4'9" tall and of slim build, so it was not difficult to restrain him. A crowd of about fifteen to twenty people gathered during the incident. None of the officers told any female individuals to 'shut the fuck up.'

Officers Not Interviewed by the Investigation

§ 87(2)(g) documentary evidence identified PO Own Monk, PO Kevin Savary, Lt. Robert Henderson, and PO Lutfi Dalipi from the 69th Precinct as responding to the scene. § 87(2)(g)

Medical Records

According to medical records from § 87(2)(b) (encl. 18a – 18d), § 87(2)(b) presented at the emergency room on § 87(2)(b), with stomach and wrist pain. Medical personnel noted he had a bruise on his right shoulder, left sixth rib, and a bruise on his left wrist. He was prescribed 600 milligrams of Motrin. § 87(2)(b) was diagnosed with abrasions and an upper respiratory infection.

NYPD Document(s)

Arrest Report

- According to § 87(2)(b)'s arrest report (encl. 10a – 10c), he was observed drinking alcohol in public view. When approached, he ran inside § 87(2)(b) and resisted his arrest by flailing his arms and refusing to be handcuffs. A quantity of crack cocaine and marijuana were recovered in his possession pursuant to his arrest.

69th Precinct Command Log

- According to the command log (encl. 21), § 87(2)(b)'s physical and mental condition was apparently normal.

Arrest Photo

- § 87(2)(b)'s arrest photo (encl. 6) shows no sign of visible injury.

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of January 25, 2010, with regard to the incident (encl. 27).

Civilian(s) Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian(s) CCRB History

- This is the first CCRB complaint filed by § 87(2)(b)

Subject Officer(s) CCRB History

- Sgt. Delman has been a member of the service for eleven years, PO Denny a member for five years, and there are no substantiated CCRB allegations against them (encl. 2a – 2c).

Conclusion

Identification of Subject Officer(s)

- Sgt. Delman and PO Denny admitted to interacting with § 87(2)(b)

- § 87(2)(g)

- § 87(2)(g)

Investigative Findings and Recommendations

§ 87(2)(g)

Allegation A – Force: PO Christopher Denny used physical force against § 87(2)(b)

Allegation B – Force: Sgt. Eric Delman used physical force against § 87(2)(b)

It is undisputed that PO Denny and Sgt. Delman used force against § 87(2)(b) during the incident.

§ 87(2)(g) By his account, he was brought to the ground twice; his head was slammed against various walls and doors six times; and he was kicked five to seven times during the incident. His arrest photo showed no sign of visible injury (encl. 6). § 87(2)(g)

§ 87(2)(g) The command log noted his physical and mental condition as apparently normal (encl. 21). § 87(2)(b) only complained of soreness in his ribs and abrasions on his wrist. § 87(2)(g)

§ 87(2)(g) PO Denny stated that he grabbed § 87(2)(b) by his arms and escorted him out of the building. Sgt. Delman stated that when § 87(2)(b) began to struggle outside the building and reach into his rear pockets, Sgt. Delman pushed him against a fence and pulled his hands out of his pockets. Their testimony was consistent with § 87(2)(b)'s arrest report (encl. 10a – 10c). Sgt. Delman and PO Denny stated that § 87(2)(b) was never punched or kicked and his head was never slammed against a wall or door. § 87(2)(g)

§ 87(2)(g) According to Patrol Guide Section 203-11, an officer may use that amount of force necessary to overcome resistance and effect an arrest (encl. 1). § 87(2)(g)

Allegation C – Abuse of Authority: Sgt. Eric Delman threatened § 87(2)(b) with the use of force.

§ 87(2)(b) alleged that Sgt. Delman told him, “Shut the fuck up. I will kill you in this body.” Sgt. Delman denied making this threat. § 87(2)(g)

Allegation D – Force: An officer tightly handcuffed § 87(2)(b)

§ 87(2)(b) alleged that, after PO Denny and Sgt. Delman threw him to the ground outside of § 87(2)(b) an officer approached and twice tightened his handcuffs; once by stepping on his handcuffed wrists as he was lying on the ground and a second time by grasping his wrists to further tighten them. § 87(2)(g)

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Sgt. Delman and PO Denny stated that no one tightened § 87(2)(b)'s handcuffs. § 87(2)(b) was charged with § 87(2)(b)

§ 87(2)(b). He also signaled his intent to file a civil suit regarding the incident at the time of his interview. § 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)

Allegation E – Discourtesy: An officer spoke obscenely to § 87(2)(b)

§ 87(2)(b) alleged that an officer told her to 'shut the fuck up.' The investigation was ultimately unable to obtain a formal statement from § 87(2)(b) regarding the incident. § 87(2)(g)

§ 87(2)(g)

Team: _____

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Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date